

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

TRISTRATA TECHNOLOGY, INC.)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 06-644(JJF)
)	
LOUISE BIANCO SKIN CARE, INC.,)	
MEDICAL SKIN THERAPY RESEARCH,)	
INC., REVISION SKIN CARE, INC. and Z)	
COSMETICA USA, LLC.)	
)	
Defendants.)	

**PLAINTIFF’S MOTION FOR DEFAULT JUDGMENT
AND INCORPORATED MEMORANDUM OF LAW**

Plaintiff Tristrata Technology, Inc. (“TTI”), by and through its counsel, respectfully moves this Court for a default judgment against Defendant Z Cosmetica USA, LLC. (“ZCUL”), pursuant to Federal Rule of Civil Procedure 55.

MOTION FOR DEFAULT JUDGMENT

1. On October 17, 2006, Plaintiff filed its Complaint against Defendant.
2. On February 13, 2007, TTI served ZCUL’s registered agent, The Corporation Trust Company, by special process server. Services was accepted by a party of ZCUL’s registered agent named Scott Lascala which can be affirmed by the special process server’s return of service, attached hereto as Exhibit A.
3. ZCUL was required under Fed. R. Civ. P. 12(a)(1)(A) to file an answer to the Complaint within twenty (20) days of service or by no later than March 5, 2007.
4. On March 6, 2007, parties submitted to the court a stipulation to extend time for ZCUL’s time to answer the complaint until April 5, 2007. The court granted the order on March 9, 2007.

5. To date, ZCUL has not answered or otherwise responded to the Complaint nor has an appearance been entered on ZCUL's behalf.

WHEREFORE, Plaintiff respectfully requests that the Court:

- A. Enter a default judgment against ZCUL pursuant to Fed. R. Civ. P. 55 on all counts of the Complaint;
- B. Grant Plaintiff a period of time for discovery to determine the amount of damages;
- C. Grant Plaintiff attorney's fees and costs;
- D. Schedule a hearing to determine the amount of damages, including attorney's fees and costs; and
- E. Award to Plaintiffs such other and additional relief as this Court deems just and proper.

INCORPORATED MEMORANDUM OF LAW

As noted in Exhibit A attached hereto, ZCUL was served with the summons and Complaint on February 13, 2007. To date, ZCUL has not answered the Complaint nor entered an appearance in this action. Because ZCUL's answer was due on or before April 5, 2007, it is clear that ZCUL is in default and judgment should be entered against it.

Plaintiff thus respectfully requests that this Court enter a default judgment against ZCUL in the manner set forth above.

Dated: May 2, 2008

Respectfully submitted,

/s/Arthur G. Connolly, III

Arthur G. Connolly, III (#2667)
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on May 2, 2008, the foregoing document was served via First-Class U.S. Mail and CM/ECF on the following counsel of record:

Louise Bianco, President Louise Bianco Skin Care, Inc. 13655 Chandler Boulevard Sherman Oaks, CA 91401	
Brenda Purdy, President Medical Skin Therapy Research Inc. P.O. Box 231268 Encinitas, CA 92023	
John Muller, President Revision Skincare Inc. 9019 Premier Row Dallas, TX 75247	TEPLEN & ASSOCIATES, PLLC Philip H. Teplen, Esq. Empire State Building 350 Fifth Avenue, 57 th Floor New York, NY 10118
Philip Zellner Z Cosmetics USA, LLC 1650 New Highway Farmingdale, NY 11735	

/s/Arthur G. Connolly, III
Arthur G. Connolly, III (#2667)

EXHIBIT A

UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE

TRISTRATA TECHNOLOGY, INC.,

SUMMONS IN A CIVIL CASE

Plaintiff,

V.

CASE NUMBER: C.A. No. 06-644

LOUISE BIANCO SKIN CARE INC.,
MEDICAL SKIN THERAPY RESEARCH,
INC., REVISIONS SKIN CARE, INC., AND Z
COSMETICA USA, LLC,

Defendants.

TO: Z Cosmetica USA, LLC
c/o The Corporation Trust Company
Corporation Trust Center
1209 Orange Street
Wilmington, Delaware 19801

YOU ARE HEREBY SUMMONED and required to serve upon PLAINTIFF'S ATTORNEY (name and address)

Arthur G. Connolly, III, Esquire
CONNOLLY BOVE LODGE & HUTZ LLP
The Nemours Building
1007 North Orange Street
Post Office Box 2207
Wilmington, Delaware 19899-2207
Telephone: (302) 658-9141

an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You must also file your answer with the Clerk of this Court within a reasonable period of time after service.

PETER T. DALLEO

CLERK

FEB 13 2007

DATE


(BY) DEPUTY CLERK

RETURN OF SERVICE

Service of the Summons and complaint was made by me(I)

DATE

2/13/07

NAME OF SERVER (PRINT)

TITLE

DENORRIS BRITT

SPECIAL PROCESS SERVER

Check one box below to indicate appropriate method of service

☐ Served personally upon the defendant. Place where served: _____☐ Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein.

Name of person with whom the summons and complaint were left: _____

☐ Returned unexecuted: _____☒ Other (specify): SERVED: Z COSMETICA USA, LLC C/O THE CORPORATION TRUST CO. 1209 ORANGE ST. WILMINGTON, DE COPIES THEREOF WERE ACCEPTED BY SCOTT LASCALA

STATEMENT OF SERVICE FEES

TRAVEL

SERVICES

TOTAL

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.

Executed on 2/13/07

Date

Signature of Server

BRANDYWINE PROCESS SERVERS, LTD.

P.O. BOX 1360

WILMINGTON, DE 19899-1360

302- 475-2600